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**FEDERAL ELECTION COMMISSION
999 E Street, N.W.
Washington, D.C. 20463**

CELA

FIRST GENERAL COUNSEL'S REPORT

MUR: 6213

DATE COMPLAINT FILED: September 11, 2009

LAST RESPONSE RECEIVED: October 7, 2009

DATE ACTIVATED: November 10, 2009

**EXPIRATION OF STATUTE OF LIMITATIONS:
August 17, 2014 / December 16, 2014**

COMPLAINANT:

**Sam Lieberman, Chairman
Nevada State Democratic Party**

RESPONDENT:

**Decidedly Unhappy Mainstream Patriots Rejecting
Evil-mongering Incompetent Democrats Political
Action Committee (DUMPREID PAC) and
Charles Muth, in his official capacity as treasurer**

**RELEVANT STATUTES
AND REGULATIONS:**

**2 U.S.C. § 432(e)(4)
2 U.S.C. § 441d
11 C.F.R. § 102.14
11 C.F.R. § 110.11**

INTERNAL REPORTS CHECKED:

Disclosure Reports

FEDERAL AGENCIES CHECKED:

None

I. INTRODUCTION

**The Decidedly Unhappy Mainstream Patriots Rejecting Evil-mongering Incompetent
Democrats Political Action Committee (DUMPREID PAC) and Charles Muth, in his official
capacity as treasurer (the "Committee"), was formed "to defeat Sen. Reid in the 2010 election,"
according to an August 4, 2009, press release on its website, <http://dumpreid.com>. The
complaint alleges that the Committee uses Senator Harry Reid's name as part of its committee
name in violation of 2 U.S.C. § 432(e)(4), and has failed to include proper disclaimers on a**

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1 public communication in the form of a mailer that expressly advocates against Senator Reid's re-
2 election and solicits contributions, and on two websites in violation of 2 U.S.C. § 441d and
3 11 C.F.R. § 110.11. In its response, the Committee states that although it initially registered
4 using the name "Dump Reid Political Action Committee," it has since then filed an amended
5 Statement of Organization ("Form 1") clarifying its name, that DUMPREID is just an acronym or
6 abbreviation, and that DUMPREID PAC, as used on its website, is a Committee project, and as
7 such, is allowed to use Senator Reid's name. Response at 1. The Committee further asserts that
8 its website and printed mailer contain the appropriate disclaimers, but admits that an incomplete
9 disclaimer appeared on its website for approximately one month. According to the response, the
10 second website mentioned in the complaint, www.dumpreid.com, is not owned, operated or
11 funded by the Committee, but is operated as an independent entity by Muth, the Committee's
12 treasurer. Response at 2, 4. There is no evidence to the contrary and it appears to have been shut
13 down, as we were unable to find it on the Internet.

14 It appears that the Committee, an unauthorized committee, has violated, and continues to
15 violate, the Federal Election Campaign Act of 1971, as amended (the "Act") and the
16 Commission's regulations by including Senator Reid's last name as part of its official name in its
17 current Form 1. See 2 U.S.C. § 432(e)(4); 11 C.F.R. § 102.14(a). Moreover, the Committee's
18 past mailer was, and its current website disclaimer is, deficient because they fail to use the
19 Committee's full name in the "paid for by" section. See 2 U.S.C. § 441d(a)(3); 11 C.F.R.
20 § 110.11(b)(3). However, current Form 1 and the website disclaimer include the Committee's
21 correct name in the text, and the mailer used the "DUMPREID" name, therefore providing partial
22 identification. Accordingly, we do not believe this matter warrants the further use of

Commission resources and recommend that the Commission exercise its prosecutorial discretion and dismiss the complaint, send a cautionary letter, and close the file.

II. FACTUAL SUMMARY

The Committee filed a Form 1 on August 17, 2009, stating it was an unauthorized committee, and an amended Form 1 on August 27, 2009, reflecting a change in the Committee's address to a post office box. Both state the Committee's name as "Dump Reid Political Action Committee." On September 19, 2009, eight days after the complaint was filed, the Committee filed a second amended Form 1 stating the Committee's name to be "Decidedly Unhappy Mainstream Patriots Rejecting Evil-mongering Incompetent Democrats Political Action Committee (DUMPREID PAC)." See Attachment 1.

Based on the original and first amended Form 1s, the complaint alleges that the Committee's official name includes Senator Reid's name in violation of 2 U.S.C. § 432(e)(4). The complaint also attaches a mailer, which appears to be a two-page public communication that expressly advocates against Senator Reid's re-election and solicits contributions, and asserts that the Committee sent it out. The complaint further alleges that the Committee violated the disclaimer requirements at 2 U.S.C. § 441d and 11 C.F.R. § 110.11, by failing to place the mailer's disclaimer in a printed box, using "PAC" instead of spelling out "Political Action Committee," and failing to include in disclaimers on both the mailer and the Committee's website the Committee's Internet or street address and telephone number and a "not authorized by any candidate or candidate's committee" statement.

The response states that the most recent Form 1 was filed to "clarify" the Committee's "full and proper name," asserts that DUMPREID "is an acronym or abbreviation" and maintains that DUMPREID PAC is a Committee project, and as such, is allowed to use Senator Reid's

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1 name. The response further states that the Committee's original and first amended Form 1s were
2 accepted by the Commission "without notification . . . that the [Committee's] name was
3 somehow contrary to Commission regulations." Response at 1, 4-5. The response did not
4 address the fact that the Committee's official name as reflected in Box 1 of its most recent Form
5 1 still includes Senator Reid's name in the parenthetical (DUMPREID PAC).

6 With respect to the mailer, the response further asserts that "[t]he PAC's printed mailings
7 and website conform to federal law and Commission regulations with respect to required
8 disclaimers" and "the only mailing the PAC has ever distributed contains the required
9 disclaimers." Response at 2. The response maintains the complaint references a draft and not
10 the final version, and attaches the mailer that the Committee actually distributed. The response
11 points out that the version of the mailer attached to the complaint contains a "Getty Images"
12 watermark, demonstrating its draft status. The copy of the mailer that the Committee asserts was
13 actually distributed contains a disclaimer in a printed box which includes the name of the
14 Committee as it was then on file with the Commission (Dump Reid Political Action Committee),
15 its website address and a "not authorized by any candidate or candidate's committee" statement.

16 The response admits that the website's initial disclaimer was inadequate because from
17 August 4 until September 11, 2009, it lacked the "not authorized by any candidate or candidate's
18 committee" statement and Committee's address, but requests dismissal of the complaint for this
19 "technical violation." Response at 3-4, 6. The Committee's current website disclaimer appears
20 as follows:

21 **PAID FOR BY DUMP REID PAC**
22 **AND NOT AUTHORIZED BY ANY CANDIDATE OR CANDIDATE'S COMMITTEE**
23 **A SPECIAL PROJECT OF THE DECIDEDLY UNHAPPY MAINSTREAM PATRIOTS**
24 **REJECTING EVIL-MONGERING INCOMPETENT DEMOCRATS PAC**
25 **WWW.DUMPREID.COM**
26

III. LEGAL ANALYSIS

A. The Committee's Name

A political committee's Form 1 must include its full name, and an unauthorized political committee "shall not include the name of any candidate in its name." 2 U.S.C. §§ 432(e)(4), 433(b)(1); see 11 C.F.R. §§ 102.1(a)(1)(i), 102.14(a). A candidate's name, however, may be used in an unauthorized committee's special project name if it shows clear opposition to the candidate, but this does not affect the prohibition on using a candidate's name in the name of a political committee itself. See *Common Cause v. FEC*, 842 F.2d 436, 440, 443 (D.C. Cir. 1988) (upholding the ban on the use of a candidate's name in an unauthorized committee's official name while allowing the use of a candidate's name in the title of special projects or communications); 11 C.F.R. § 102.14(b)(3). In Advisory Opinion 1995-9 (*NewtWatch*), the Commission advised an unauthorized committee opposed to then-Speaker of the House of Representatives Newt Gingrich that "the term 'NewtWatch' may not be used as part of the Committee's name," but "the Act and Commission regulations do not prohibit the Committee from using the name 'NewtWatch' as a project name." AO 1995-9 at 6.

The Committee has violated, and is still violating, 2 U.S.C. § 432(e)(4) in that its official name as listed on its most recent Form 1 contains Senator Reid's last name in a parenthetical. The assertions that "Dump Reid" is an "acronym or abbreviation" and "Dump Reid PAC" is an "ongoing fundraising project" do not change the fact that Senator Reid's name is listed as part of the official name of the Committee, which is clearly prohibited by the statute. 2 U.S.C. § 432(e)(4); Response at 1, 4-5; see *Common Cause*, 842 F.2d at 440, 443 (a political committee has only one official name). Additionally, only separated segregated funds of connected organizations may use an abbreviation or acronym for identification. 11 C.F.R. § 102.14(c).

B. Disclaimers

Since the Committee is an unauthorized committee, its public communications, including mass mailings and Internet websites, must contain a disclaimer including, *inter alia*, the full name of the sponsoring committee, its Internet address or street address and telephone number, and a statement that it was not authorized by any candidate or candidate's committee.

2 U.S.C. §§ 431(22), 441d; 11 C.F.R. §§ 100.26, 110.11(a)(1). The disclaimer must also clearly identify who paid for the communication or website. *See* 2 U.S.C. § 441d(a)(1).

The disclaimers for the mailer and the website each read "Paid for and authorized by DUMP REID PAC." *See* 2 U.S.C. § 441d(a)(3); 11 C.F.R. § 110.11(b)(3). As written, these disclaimers indicate that the mailer and website are directly paid for by the "ongoing fundraising project" DUMPREID PAC, not the Committee itself. *See Common Cause*, 842 F.2d at 440, 443 (stating that permitting the use of a special project name in a disclaimer instead of the committee's official name would "shatter[]" the regulatory structure because readers and potential contributors would have no coherent means to discover the identity and status of those soliciting them); *Special Fundraising Projects*, 59 Fed. Reg. at 17267 (disclaimers must clearly identify who paid for the communication). It appears that the final version of the mailer, attached to the response, is otherwise in accordance with the disclaimer requirements. The response admits that the website initially lacked the "not authorized by any candidate or candidate's committee" statement and the Committee's address, although that has now been corrected. Response at 3.

The Committee has violated 2 U.S.C. § 432(e)(4) and 11 C.F.R. § 102.14(a) by including Senator Reid's last name as part of its official name in its Form 1, and 2 U.S.C. § 441d(a)(3) and 11 C.F.R. § 110.11(b)(3) by using deficient disclaimers on its website and mailer that fail to use

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1 the Committee's full name in the "paid for by" section. However, in light of the fact that the
2 current Form 1 and the website disclaimer include the Committee's full name in the text, and the
3 mailer used the "DUMPREID" name, thereby providing partial identification, we do not believe
4 that this matter warrants further use of the Commission's resources. Accordingly, we
5 recommend the Commission exercise its prosecutorial discretion and dismiss the complaint with
6 caution. *See Heckler v. Chaney*, 470 U.S. 821 (1985). In the cautionary letter, we plan to advise
7 the Committee to file an amended Form 1 removing the parenthetical "(DUMPREID PAC)"
8 from its official name and to include the Committee's full name in the "paid for by" section of its
9 website disclaimer and in any future public communications.

10 **IV. RECOMMENDATIONS**

- 11 1. Dismiss the complaint against the Decidedly Unhappy Mainstream Patriots
12 Rejecting Evil-mongering Incompetent Democrats Political Action Committee
13 (DUMPREID PAC), and Charles Muth, in his official capacity as treasurer, and
14 send a cautionary letter.
- 15 2. Approve the attached Factual and Legal Analysis.
- 16 3. Approve the appropriate letters.
- 17 4. Close the file.

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Thomasenia P. Duncan
General Counsel

2.5.10
Date

BY: K. H. Guith
Kathleen Guith
Deputy Associate General Counsel
for Enforcement

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Susan L. Lebeaux
Assistant General Counsel


J. Cameron Thurber
Attorney

Attachment:

1. Amended Form 1, filed September 19, 2009

**FEC
FORM 1**

**STATEMENT OF
ORGANIZATION**

(See instructions)

RECEIVED
FEC MAIL CENTER
2009 SEP 18 PM 2:41

Office use only

1. NAME OF
COMMITTEE (in full)



(Check if name
is changed)

Example: If typing, type
over the lines

12FE4035

Decidedly Unhappy Mainstream Patriots Rejecting Evil-mongering Incompetent
Democrats Political Action Committee (DUPACIO PAC)

ADDRESS (number and street)

P.O. Box 77472



(Check if address
is changed)

Washington

DC

20013

7474

CITY ▲

STATE ▲

ZIP CODE ▲

COMMITTEE'S E-MAIL ADDRESS (Please provide only one e-mail address)



(Check if address
is changed)

dupacio@dupacio.com

COMMITTEE'S WEB PAGE ADDRESS (URL)



(Check if address
is changed)

www.dupacio.com

2. DATE

09

14

2009

3. FEC IDENTIFICATION NUMBER

C 000408330

4. IS THIS STATEMENT



NEW (N)

OR



AMENDED (A)

I certify that I have examined this Statement and to the best of my knowledge and belief it is true, correct and complete

Type or Print Name of Treasurer

Charles Math

Signature of Treasurer



Date

09

14

2009

NOTE: Submission of false, erroneous, or incomplete information may subject the person signing this Statement to the penalties of 2 U.S.C. §437g.

ANY CHANGE IN INFORMATION SHOULD BE REPORTED WITHIN 10 DAYS

Office
Use
Only

For further information contact:
Federal Election Commission
1-800-424-9530
Toll-Free 1-800-424-9530

FEC FORM 1
(Revised 08/2008)

Attachment

Page

1

of

4

10044271799

29030161290

5. TYPE OF COMMITTEE (Check One)

Candidate Committee:

- (a) ☐ This committee is a principal campaign committee. (Complete the candidate information below.)
- (b) ☐ This committee is an authorized committee, and is NOT a principal campaign committee. (Complete the candidate information below.)

Name of
CandidateCandidate
Party AffiliationOffice
Sought

House

Senate

President

State

District

- (c) ☐ This committee supports/opposes only one candidate, and is NOT an authorized committee.

Name of
Candidate

Party Committee:

- (a) ☐ This committee is a ☐ (National, State
(or subordinate) committee of the ☐ (Democratic,
Republican, etc.) Party.

Political Action Committee (PAC):

- (a) ☐ This committee is a separate segregated fund. (Identify connected organization on line 6.) Its connected organization is or
- ☐ Corporation ☐ Corporation w/o Capital Stock ☐ Labor Organization
- ☐ Membership Organization ☐ Trade Association ☐ Cooperative
- ☐ In addition, this committee is a Lobbyist/Registrant PAC.
- (b) ☒ This committee supports/opposes more than one Federal candidate, and is NOT a separate segregated fund or party committee. (I.e., nonconnected committee)
- ☐ In addition, this committee is a Lobbyist/Registrant PAC.
- ☐ In addition, this committee is a Leadership PAC. (Identify sponsor on line 6.)

Joint Fundraising Representative:

- (a) ☐ This committee collects contributions, pays fundraising expenses and disburses net proceeds for two or more political committees/organizations, at least one of which is an authorized committee of a federal candidate.
- (b) ☐ This committee collects contributions, pays fundraising expenses and disburses net proceeds for two or more political committees/organizations, none of which is an authorized committee of a federal candidate.

Candidates Participating in Joint Fundraising

1. <input type="text"/>	FEC ID number	<input type="text"/>
2. <input type="text"/>	FEC ID number	<input type="text"/>
3. <input type="text"/>	FEC ID number	<input type="text"/>
4. <input type="text"/>	FEC ID number	<input type="text"/>

Attachment

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Write or Type Committee Name

Decidedly Unhappy Mainstream Patriots Rejecting Evil-mongering Incompetent Democrats Political Action Committee (DUMPRED PAC)

8. Name of Any Connected Organization, Affiliated Committee, Joint Fundraising Representative, or Leadership PAC Sponsor

NONE

Mailing Address

CITY A

STATE A

ZIP CODE A

Relationship:

☐

Connected Organization

☐

Affiliated Committee

☐

Joint Fundraising Representative

☐

Leadership PAC Sponsor

7. Custodian of Records: Identify by name, address, (phone number - optional), and position of the person in possession of Committee books and records.

Full Name

PAC Outsourcing LLC

Mailing Address

9192 Owen Hill Road

Suite 801

Owen Hill

MD

20748

Title or Position V

CITY A

STATE A

ZIP CODE A

Custodian of Records

Telephone number **301 - 830 - 0910**

8. Treasurer: List the name and address (phone number - optional) of the treasurer of the committee; and the name and address of any designated agent (e.g., assistant treasurer).

Full Name

of Treasurer

Charles Math

Mailing Address

DUMP RED PAC

767 Benedict Drive

Las Vegas

NV

89110

Title or Position V

CITY A

STATE A

ZIP CODE A

Treasurer

Telephone number **702 - 691 - 0001**

Attachment

1

10044271801
29030161292

Full Name of
Designated
Agent

Wade E. Williams

Mailing Address

9183 Owen Hill Road

Owen Hill

ND

5745

Title or Position

CITY A

STATE A

ZIP CODE A

Assistant Treasurer

Telephone number 301 - 838 - 6618

B. Banks or Other Depositories: List all banks or other depositories in which the committee deposits funds, holds accounts, rents safety deposit boxes or maintains funds.

Name of Bank, Depository, etc.

Service 1st Bank

Mailing Address

8005 S. Eastern

Suite 100

Las Vegas

NV

89123

CITY A

STATE A

ZIP CODE A

Name of Bank, Depository, etc.

Bank of America

Mailing Address

6011 Owen Hill Road

Owen Hill

ND

5745

CITY A

STATE A

ZIP CODE A

Attachment

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